



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

01/13/2012

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Independence Plan Amendment  
DLCD File Number 003-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, January 30, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Shawn Irvine, City of Independence  
Angela Lazarean, DLCD Urban Planner  
Steve Oulman, DLCD Regional Representative  
Angela Lazarean, DLCD Urban Planner

<paa> YA



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

DATE  
STAMP

DEPT OF

JAN 10 2012

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Independence**

Local file number: **CPA/ZC-03-11**

Date of Adoption: **12/13/2011**

Date Mailed: **1/9/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 10/17/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Comprehensive Plan Map Amendment from Residential to Commercial. Zone Map amendment from Medium Density Residential (RM) to Mixed Use Pedestrian Friendly Commercial (MUPC) for Lot 700 of Map 8.4.29AA. Assessor map attached.

Does the Adoption differ from proposal? Yes, Please explain below:

The City adopted ORd 1501 December 13, 2011 hearing. However, the City wishes to condition the ordinance for zone change and comp plan amendment to apply only upon date the sale of the Subject Property to Randall C. Jones, DMC, LLC closes. If the sale does not close, the City does not want to apply the CPMZ and ZC. See attached CB-2012-02.

Plan Map Changed from: **Residential** to: **Commercial**

Zone Map Changed from: **Medium Density Residential (RM (MUPC))** to: **Mixed Use Ped Comm**

Location: **1004 Monmouth Street (Lot 700 of Map 8.4.29.AA)**

Acres Involved: **1.04**

Specify Density: Previous: **12 units/acre**

New: **N/a**

Applicable statewide planning goals:

**1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

DLCD File No. 003-11 (19018) [16889]

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

---

Local Contact: **Renata Wakeley**

Phone: **(503) 588-6177** Extension:

Address: **105 High Street SE**

Fax Number: **503-588-6094**

City: **Salem**

Zip: **97301-**

E-mail Address: **renatac@mwwcog.org**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).



## CITY OF INDEPENDENCE MEMORANDUM

TO: Mayor and City Council  
FROM: David Clyne, City Manager  
MEETING DATE: January 10, 2012  
SUBJECT: Council Bill #2012-02, a proposed ordinance amending Ordinance #1501

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Information Only

Action Requested

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**Statement of Issue:**

*Council Bill #2012-02, A Proposed Ordinance Amending Ordinance No. 1501 is submitted for council consideration.*

**Background:**

*At the December 13, 2011 City Council meeting, an ordinance was passed to change the zoning on the rear lot of the former Senior Center property, as a condition of sale.*

**Discussion:**

*As of press time, closing has not been completed, and should the city retain the use of the property, the zone change will not be necessary or desired. The proposed ordinance as provided changes the effective date to closing upon sale to Randall Jones, DMC LLC.*

*Ordinance #1501 has an effective date of January 13, 2012, and therefore an emergency clause has been added to the council bill for it to take effect immediately.*

*If the sale closes prior to the council meeting, then no action will be necessary.*

**Fiscal Impact:** None.

**Options:**

1. Hold first & second reading of Council Bill #2012-02
2. Take no action

**Recommendation/Suggested Motion:**

*Staff recommends Option 1, utilizing the established script for passage of city ordinances (if necessary).*

**Attachments:**

- A. Council Bill #2012-02.

*Memo prepared by Karin Johnson, City Recorder*



**BEFORE THE CITY COUNCIL OF THE CITY OF INDEPENDENCE  
STATE OF OREGON, COUNTY OF POLK**

An Ordinance Amending the Comprehensive ]  
Plan Designation and Zoning Map for the ]  
City of Independence Property Located at ] COUNCIL BILL #2011-06  
1004 Monmouth Street, Independence, ]  
Tax Lot Number 8429AA 700 ]

**ORDINANCE NO. 1501**

**WHEREAS**, the subject property, located at 1004 Monmouth Street, Independence, Tax Lot No. 8429AA 700, is within the city limits of the City of Independence, and

**WHEREAS**, after holding a public hearing and adopting findings at the December 13, 2011 City Council meeting, the City Council approved to amend said Property's Comprehensive Plan designation from Residential to Commercial, and rezone Property from Medium Density Residential (RM) to Mixed Use Pedestrian Commercial (MUPC), **NOW, THEREFORE**,

**THE CITY OF INDEPENDENCE DOES ORDAIN AS FOLLOWS:**

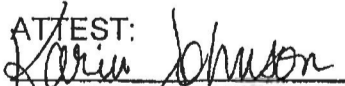
**Section 1. Findings.** The City of Independence hereby adopts the findings of the Staff Report as set forth in Exhibit "A", attached hereto and by this reference incorporated herein.

**Section 2. Property Description.** The Property to be redesignated and rezoned is described in Exhibit "B", attached hereto and by this reference incorporated herein.

**Section 3. Property Rezoned.** The Property's Comprehensive Plan designation of Residential is hereby amended to Commercial, and is hereby rezoned from Medium Density Residential (RM) to Mixed Use Pedestrian Commercial (MUPC), as illustrated in Exhibit B. All official maps of the City are hereby amended to conform to the changes made by this ordinance.

READ for the first time: December 13, 2011  
READ for the second time: December 13, 2011  
APPROVED by Council: December 13, 2011  
SIGNED by the Mayor: December 13, 2011  
EFFECTIVE DATE: January 13, 2011

  
\_\_\_\_\_  
JOHN McCARDLE, MAYOR

ATTEST:  
  
Karin Johnson, MMC  
City Recorder

Ord. 1501/ Zone Change, Senior Center Property, Back Lot

**EXHIBIT 'A'**  
**STAFF REPORT**

Ord. 1501/ Zone Change, Senior Center Property, Back Lot



## CITY OF INDEPENDENCE

### COMMUNITY DEVELOPMENT DEPARTMENT

#### STAFF REPORT

**TO:** Independence City Council

**FILE:** CPMA/ZC-03-11

**HEARING:** December 13, 2011, 7:30 pm,  
City Council Chambers, 555 South Main Street

**APPLICANT:** City of Independence  
P. O. Box 7  
Independence, OR 97351

**SUBJECT  
PROPERTY:** Section 29AA, Township 8 South, Range 4 West Willamette  
Meridian. Lot 700 (identified as 1004 Monmouth Street).

**SIZE:** 1.04 acres

**EXHIBITS:** EXHIBIT A Assessor map  
EXHIBIT B Application materials  
EXHIBIT C Comments from Ken Perkins, Public Works  
EXHIBIT D Comments from Dan Fricke, ODOT  
EXHIBIT E Recommended Revised Condition of Approval #6

#### REQUEST:

The applicant is requesting approval to amend the Comprehensive Plan designation from



Medium Density Residential (RM) to Mixed Use Pedestrian Friendly Commercial (MUPC) and change the zoning from Medium Density Residential (RM) to Mixed Use Pedestrian Friendly Commercial (MUPC).

**PROCEDURE:**

Pursuant to Subchapter 11 of the Independence Development Code (IDC), Comprehensive Plan Map Amendments and Zone Changes are processed as a Type III quasi-judicial application.

Comprehensive Plan Amendments and Zone Changes are processed under Subchapter 12. The application was received by the City on October 17, 2011, and the application was determined complete on October 28, 2011. Notice was properly mailed under 11.015.C and 11.025.A to surrounding property owners on November 15, 2011 and published in the Itemizer Observer. Notice was also provided to the Oregon Department of Land Conservation and Development, Oregon Department of Transportation, Independence Public Works, and Independence Community Development Director.

The City has until **February 24, 2012** (120 days from acceptance of the application) to approve, conditionally approve, or deny the application.

Per 12.015, the Planning Commission holds a public hearing and forwards its recommendation on the requested action to the City Council within 30 days from the date of the Commission's hearing.

**APPEAL:**

There is no right to appeal the Planning Commission's recommendation. Appeal of the subsequent City Council's final decision is to the Land Use Board of Appeals (LUBA).

**BACKGROUND:**

The subject property is approximately 1.04 acres and is zoned Medium Density Residential (RM). The subject site is currently vacant. The property to the north is zoned Public Services (PS) and is vacant. Adjacent properties to the south are zoned RM and MUPC and contain a single family residence and a structure that was most recently used as the Independence Senior Center.

The properties to the west are zoned RM and MUPC and are developed as single family residences. Properties to the east are zoned RM and MUPC with a mix of single family residences and medium density apartments.

The applicants are requesting approval to redesignate and rezone the subject property from Medium Density Residential (RM) to Mixed Use Pedestrian Friendly Commercial (MUPC). Independence Development Standards would be applied at the time of proposed development.

Future use of the site is subject to conformance with the City Comprehensive Plan, Municipal Code, Development Code and additional criteria as outlined below.

The Independence Planning Commission held their public hearing on November 5, 2011. No

oral or written testimony or comments were submitted and the Planning Commission made a motion to recommend the City Council approve the application for zone change and comprehensive plan map amendment.

**APPLICABLE APPROVAL CRITERIA:**

Independence Development Code, Subchapter 12.025 and 12.030

**ANALYSIS OF APPLICABLE APPROVAL CRITERIA**

**Subchapter 12 Zone Changes and Plan Amendments**

**12.025 Standards for Zone Changes**

*No zone change shall be approved by the Planning Commission or enacted by the City Council unless it conforms to the Comprehensive Plan, including the Transportation System Plan, and at least one of the following standards is met:*

**Findings:** Compliance with the Comprehensive Plan, Transportation System Plan, and statewide land use goals must be met.

**Analysis:** The State of Oregon has adopted statewide land use goals to which comprehensive plan map amendment decisions must adhere. Comprehensive Plan map amendments must comply with the applicable statewide planning goals and implementing regulations. To recommend approval to the City Council, the Planning Commission must find that the application shows compliance with the applicable statewide goals. Part of this decision is determining which statewide goals are applicable. Staff finds that statewide planning Goal 1- Citizen Involvement, Goal 2- Land Use Planning Goal 9- Economic Development, Goal 10-Housing, and Goal 12- Transportation, and Goal 14- Urbanization Transportation are applicable to this approval. Staff finds statewide planning goals 3, 4, 7, 8, 11, 13, and 15-19 are found not to apply to the subject property or application.

Goal 1, Citizen Involvement- The application was received by the City on October 17, 2011 and the application was determined complete on October 28, 2011. Notice was mailed to property owners within 250 feet on November 15, 2011 and published in the Itemizer Observer. Notice was also provided to the Department of Land Conservation and Development, Department of Transportation, Independence Public Works, and Community Development Director. Staff finds this goal has been met.

Goal 2, Land Use Planning- The application was determined complete and notice was provided as required by state law and as outlined in the Subchapter 11 of the Independence Development Code. Staff finds this condition is met.

Goal 9, Economic Development- The subject property is approximately 1.04 acres. The 2005 Buildable Lands Inventory and Comprehensive Plan Update identify a Commercial job density of approximately 23 jobs per net acre. Under

the MUPC zone, the subject property is estimated to accommodate 24 jobs. Staff finds the proposed redesignation and rezone have the potential for positive job growth or employment opportunities in the City and this goal is met.

Goal 10, Housing - The subject property is currently vacant. If the rezone is approved, 1.04 acres will be removed from the City's inventory of buildable residential land and a number of dwelling units thereafter cannot be built. The subject property could account for 12 units removed from the buildable lands inventory (12 dwelling units per acre permitted). The loss of 12 units is considered small compared to the total residentially zoned acres within the City. The City's acknowledged buildable lands inventory included approximately 180 acres of residential land and a land need of approximately 260 acres for residential development over the 20-year planning horizon. As part of their acknowledged 20- year supply, completed in 2011, the City identified an additional 259.3 acres of buildable land for residential development. Given this recent update to the residential land supply, a potential loss of 1 acre, or 12 units, does not significantly impact the City's residential buildable lands inventory.

Goal 12, Transportation- The state Transportation Planning Rule (TPR) applies to comprehensive plan amendments or land use regulations that would significantly affect an existing or planned transportation facility. The property could have from Monmouth Street, or Highway 51, which is classified as a Major Arterial. The property is currently land locked by the property to the south (Lots 704 and 1200 of Map 8.4.29AA) which are under the same ownership of the subject property. Staff recommends a condition of approval of the application require that an access and utility easement, in a form approved by the Community Development Director, be recorded with the property prior to the adoption of the zone change and comprehensive plan map amendment. Notice of the application was provided to the Oregon Department of Transportation. The most intensive use of the property under the existing RM zone would allow 12 dwelling units. According to the Trip Generation Manual (7<sup>th</sup> Edition, Institute of Transportation Engineers), this would account for 9.57 trips per day per unit, or 115 trips per day to the subject property. The rezone would permit uses under the MUPC zone such as commercial retail, considered the highest or most intensive use permitted under the zone. According to the Trip Generation Manual, the highest use commercial, such as a convenience mart or fast food restaurant, could account for a range of 127 to 300 trips per day. Staff believes that the lower range of trip averages, estimated at 127 trips a day, is reasonable given the lower population size for the City. This is similar to the maximum impact allowed under the RM zone. Staff finds the rezone would not account for a significant effect or increase of traffic upon Monmouth Street, therefore, this criterion is met.

The Oregon Department of Transportation provided comments under Exhibit D stating that the changes will not result in a significant impact to area transportation facilities.

Staff finds this application consistent with the applicable goals and policies of the statewide planning goals.

The City has adopted a comprehensive plan which guides the City's decisions for comprehensive plan map amendments. To amend a designation on the comprehensive plan map the change must be consistent with the applicable goals and policies in the plan. To recommend approval, the City Council must find that the information the applicant provided shows compliance with the applicable comprehensive plan goals and policies. Part of this decision is determining which goals and policies are applicable in this case. Staff finds the goals and policies dealing with citizen participation, the economy of the city, housing needs, and transportation are applicable to this approval. Given the small size of the site, staff finds the application does not substantially affect these City's goals and policies.

Staff finds the zone change conforms to the Comprehensive Plan.

*A. The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;*

**Findings:** Staff finds this criterion does not apply.

*B. Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;*

**Findings:** Properties to the south are proposed for rezoning to MUPC and property to the west is already within that district. Property directly to the east is zoned RM but there is a mix of MUPC and RM zoning within the area. The purpose of the MUPC is to allow for a mixture of complimentary land uses that may include retail, office, commercial, housing and civic uses to create economic and social vitality. The subject property is under the same ownership of the properties to the south which have also applied for a rezone from RM to MUPC. The previous use of the property to the south was as the Independence Senior Center and the existing development and structure more appropriately fit under the MUPC zone. The rezone and comprehensive plan map amendment would be in line with recent adoption of the MUPC zone as part of the Comprehensive Plan update and the creation of a strong link in the commercial core along Monmouth Street. Staff finds the rezone and comprehensive plan map amendment are appropriate to changes in the downtown corridor and staff finds this condition has been met.

*C. There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.*

**Findings:** The property is currently vacant but has a prospective purchaser agreement related to the Senior Center property and parking lot to the south (Lots 704 and 1200 of

Map 8429AA). No information regarding future development has been provided. The subject property is included with a prospective purchaser agreement for the two lots to the south, most recently used as the Independence Senior Center. Staff finds the properties and development to the south, also applying for a zone change to MUPC, better fit under the purpose and permitted uses under the MUPC zone and, as such, the subject property should be zoned to meet the zone of the corresponding property and use.

12.030 Standards for Plan Amendment

*No plan amendment shall be approved by the Planning Commission or enacted by the City Council unless at least one of the following standards is met:*

*A. The Comprehensive Plan designation for the land for which the plan amendment is initiated is erroneous and the plan amendment would correct the error;*

*B. Conditions in the neighborhood surrounding the land for which the plan amendment is initiated have changed to such a degree that the Comprehensive Plan designation is no longer appropriate and the plan amendment would conform to the new conditions in the neighborhood;*

*C. There is a public need for land use of the kind for which the plan amendment is initiated and that public need can best be met by the plan amendment.*

**Findings:** The discussion and finding for 12.025 (A), (B), and (C), above, are hereby incorporated by reference.

**SUMMARY FINDINGS OF FACT/CONDITIONS OF APPROVAL:**

- 1) The subject property is: Section 29AA, Township 8 South, Range 4 West Willamette Meridian. Tax Lot 700.
- 2) The owner of record is the: City of Independence, P O Box 7, Independence, Oregon.
- 3) The property is currently within city limits and has a current Comprehensive Plan designation and zoning of Medium Density Residential (RM).
- 4) The application meets the standards for approval found in: Subchapter 12.
- 5) The property is subject to approval by City Independence Public Works in regards to Title 13- Public Works of the Independence Municipal Code. See Exhibit C.
- [6) An access and utility easement, approved by the Community Development Director, shall be recorded with Lot 1200 and 704 of Map 8429AA, to benefit Lot 700 of Map 8429AA, prior to the adoption of the zone change and comprehensive plan map amendment.] **See Exhibit E**

**CONCLUSIONS/RECOMMENDATIONS:**

Based on the findings in this report, staff and the Independence Planning Commission found the application (File #CPMA/ZC-03-11) met the requirements for Comprehensive Plan Map Amendment and Zone Change found in Subchapter 12 of the Independence Development Code.

At a public hearing on December 5, 2011, the Independence Planning Commission adopted the findings in the staff report and recommended Independence City Council **approve** the application (File #CPMA/ZC-03-11) with the conditions of approval outlined above.

Renata Wakeley  
City Planner

**Comprehensive Plan Map Amendment/Zone Change 03-2011**

City Council Action Options:

- A. A motion to approve Comprehensive Plan Map Amendment/Zone Change 03-11:
  - 1. As recommended by staff and the Independence Planning Commission; or
  - 2. As further conditioned by the City Council (stating any revisions).
- B. A motion to continue the Comprehensive Plan Map Amendment and Zone Change request to a time and date certain.
- C. A motion to deny the Comprehensive Plan Map Amendment and Zone Change request (stating findings and any conditions of approval).

IMPORTANT  
This Map for Assessment  
and Taxation Purposes  
ONLY

NE1/4 NE1/4 SEC.29 T8S R4W WM  
POLK COUNTY

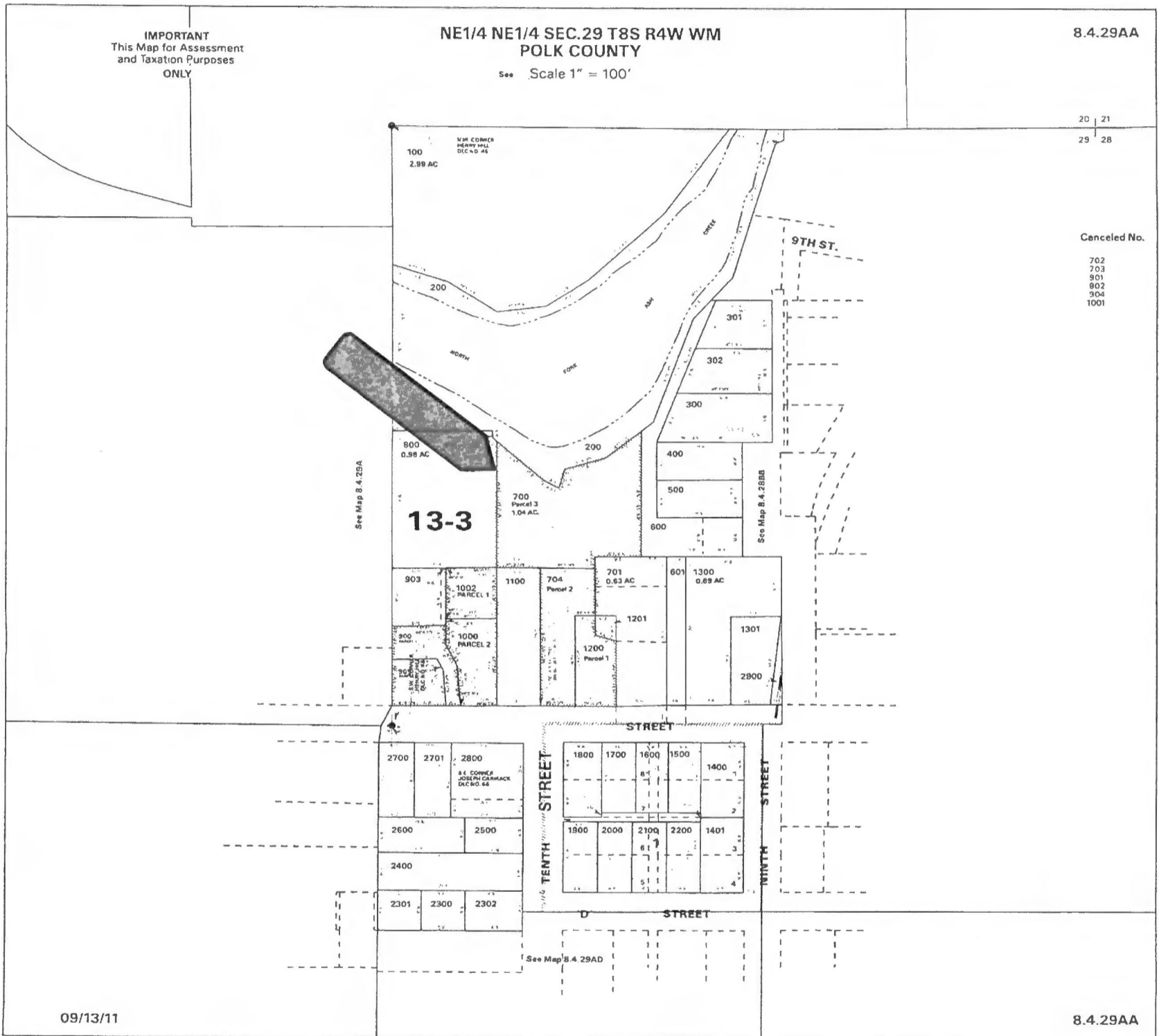
8.4.29AA

See Scale 1" = 100'

20 21  
29 28

Canceled No.

- 702
- 703
- 901
- 902
- 904
- 1001



09/13/11

8.4.29AA

Exhibit A



**CITY OF INDEPENDENCE**  
Community Development Department  
240 Monmouth Street  
Independence, OR 97351  
503.838.1212

File No. 20/CPA/03-2011  
Date Rec'd/Rec. # 10/19/2011  
APPLICATION FEE: \_\_\_\_\_  
NOTICE FEE: \$ 60.00  
TOTAL: \_\_\_\_\_

**APPLICATION FOR TYPE III/IV LAND USE ACTION**

Applicant Name: City of Independence  
Address: P.O. Box 7  
Independence, OR 97351 Phone: 503-838-1212

*If the Applicant is not the owner of record of the subject property, written authorization from the owner to act as his/her agent must be provided.*

SUBJECT PROPERTY DESCRIPTION: 8.4.29 AA 700  
Assessor's Map No. Tax Lot  
1004 Monmouth St.  
Street Address

PROPERTY OWNER OF RECORD: Name: City of Independence  
Address: P.O. Box 7 Independence OR 97351  
Phone: 503-838-1212

**APPLICATION FOR:**

Type III Action:	Fee: (+\$60 Notice Fee)	Type IV Action*:	Fee: (+ \$60 Notice Fee)
<input type="checkbox"/> Annexation	\$175; \$500 w/election	<input type="checkbox"/> Comprehensive Plan	\$300
<i>Attach annexation petition to this application</i>		Amendments/Revisions	
<input checked="" type="checkbox"/> Comprehensive Plan	\$300	<input type="checkbox"/> Master Plan Adoptions	
Map Amendment		<input type="checkbox"/> Development Code	
<input checked="" type="checkbox"/> Zone Change	\$500 + \$500 deposit	Amendments	
<input type="checkbox"/> Site Design Review for	\$500, plus 2% of		
commercial developments	engineers certified		
with 40,000+ s.f. floor area	estimate over \$50,000		

*\*Private parties may request a Type IV action; however, it must be initiated by the Planning Commission or City Council.*

Action Requested: (use additional sheets as needed) Zone Change from RM to MUPC  
Comprehensive Plan change from Residential to Commercial

**Required**

**Attachments:** A. Plot plan of subject property - show scale, north arrow, location of all existing and proposed structures, road access to property, names of owners of each property, etc. Plot plans can be submitted on tax assessor's maps, which can be obtained from the tax assessor's office in the Polk County Courthouse, Dallas, OR.

B. Legal description of the property as it appears on the deed (metes and bounds). This can be obtained at the Polk County Clerk's office in the Courthouse.

C. For a Zone Change, Comprehensive Plan Amendment or Urban Growth Boundary change, the names, addresses and zip codes of all the owners of record of the property(ies) to be reclassified, if not shown above.

D. A certified list of names and addresses of each owner of all properties within 250' of the subject property. 2 sets of mailing labels for each property owner shall also be provided. For an additional \$25, the city will provide the list and labels. CHECK HERE FOR THIS OPTION  and include \$25 to the total due with your application.



Application for Type III/IV Land Use Action (cont.)

THE APPLICANT(S) SHALL CERTIFY THAT:

- A. The above request does not violate any deed restrictions that may be attached to or imposed upon the subject property.
- B. If the application is granted, the Applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- C. All the above statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true. The applicant(s) so acknowledge that any permit issued on this application may be revoked if it be found that any such statements are false.

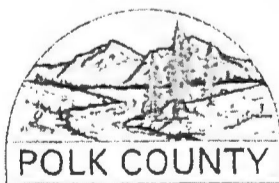
DATED this 17<sup>th</sup> day of October, 2011.

**SIGNATURE(S) OF EACH OWNER:**  
(Husband and Wife) or contract purchaser. For a Zone Change, Comprehensive Plan Amendment or Urban Growth Boundary change, the owners to be reclassified:

NAME:	PROPERTY ADDRESS:
<u>City of Independence, by Resolution, City, Missouri</u>	



# Map



## Polk County Web Maps v. 2.0

Disclaimer: This map was produced using Polk County GIS data. The GIS data is maintained by the County to support its governmental activities. This map should not be used for survey or engineering purposes. The County is not responsible for map errors, omissions, misuse or misinterpretation.

Printed 10/17/2011

Exhibit 84

**Wakeley, Renata**

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**From:** Michael Danko [danko,michael@ci.independence.or.us]  
**Sent:** Friday, November 25, 2011 4:21 PM  
**To:** Wakeley, Renata  
**Subject:** FW: cpma/zc-03-11

Renata,

Ken asked me to pass this on. Did you get comments from Carrie?

Thanks M.

**From:** Ken Perkins  
**Sent:** Wednesday, November 23, 2011 4:50 PM  
**To:** [renatac@mwvcog.org](mailto:renatac@mwvcog.org)  
**Cc:** Michael Danko  
**Subject:** cpma/zc-03-11

Hello Renata,

I believe that everything was covered in the application review with the exception of an utility easement. The easement for access could also encompass an easement for utilities, but I think it should be stated as such. There are no current utilities to lot 700.

Thank You,

Ken Perkins  
Public Works Supervisor  
City of Independence  
503-838-4781



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Region 2 Headquarters  
455 Airport Road SE Building B  
Salem, Oregon 97301-5395  
Telephone (503) 986-2600  
Fax (503) 986-2630

November 30, 2011

Ms. Renata Wakeley, Planner  
Mid-Willamette Valley Council of Governments  
105 High Street SE  
Salem, OR 97301

**SUBJECT: Comments on Comprehensive Plan Map Amendment/Zone Change CPA/ZC-03-11 and 04-11 (City of Independence)**

Dear Ms. Wakeley:

Thank you for referring the subject application to the Oregon Department of Transportation (ODOT) for review. ODOT staff have reviewed the project and the following comments are provided.

The applications are comprehensive plan map amendments from Residential to Commercial and zone changes from Medium Density Residential (RM) to Mixed Use Pedestrian Friendly Commercial (MUPC) on three tax lots totaling 1.64 acres. The property is located on the north side of OR 51 (Monmouth Street) at its intersection with 10<sup>th</sup> Street. One of the tax lots covered in application CPA/ZC-04-11 fronts on OR 51 and has an access to the highway.

As a land use matter only, ODOT has no objection to the proposed comprehensive plan amendments and zone changes. The changes will not result in a significant impact to area transportation facilities as that term is used in OAR 660-012-0060. However, we have no record of an approach road permit for the access to the state highway. The applicant will be required to apply for and obtain an approach road permit for the property or present evidence that a permit has been issued. The applicant should contact Robert Earl, District 3 Permit Specialist (503-986-2902) for information and application materials for the approach road permit. This permit should be issued prior to approval of any development on the property.

Thank you again for the opportunity to review and comment on this proposal. This letter should be included in the record as ODOT testimony. ODOT should be considered a party to the hearing and be entitled to notices of future hearings, or hearing continuances or extensions. Please provide me with a copy of the City's decision, including findings and conditions of approval.

Sincerely,

  
Daniel L. Fricke  
Senior Transportation Planner

DLF:  
cc: Cynthia Buswell  
Matt Caswell  
Robert Earl  
Michael Danko

Exhibit D

Map 8429AA). No information regarding future development has been provided. The subject property is included with a prospective purchaser agreement for the two lots to the south, most recently used as the Independence Senior Center. Staff finds the properties and development to the south, also applying for a zone change to MUPC, better fit under the purpose and permitted uses under the MUPC zone and, as such, the subject property should be zoned to meet the zone of the corresponding property and use.

12.030 Standards for Plan Amendment

*No plan amendment shall be approved by the Planning Commission or enacted by the City Council unless at least one of the following standards is met:*

A. *The Comprehensive Plan designation for the land for which the plan amendment is initiated is erroneous and the plan amendment would correct the error;*

B. *Conditions in the neighborhood surrounding the land for which the plan amendment is initiated have changed to such a degree that the Comprehensive Plan designation is no longer appropriate and the plan amendment would conform to the new conditions in the neighborhood;*

C. *There is a public need for land use of the kind for which the plan amendment is initiated and that public need can best be met by the plan amendment.*

**Findings:** The discussion and finding for 12.025 (A), (B), and (C), above, are hereby incorporated by reference.

**SUMMARY FINDINGS OF FACT/CONDITIONS OF APPROVAL:**

- 1) The subject property is: Section 29AA, Township 8 South, Range 4 West Willamette Meridian. Tax Lot 700.
- 2) The owner of record is the: City of Independence, P O Box 7, Independence, Oregon.
- 3) The property is currently within city limits and has a current Comprehensive Plan designation and zoning of Medium Density Residential (RM).
- 4) The application meets the standards for approval found in: Subchapter 12.
- 5) The property is subject to approval by City Independence Public Works in regards to Title 13- Public Works of the Independence Municipal Code. See Exhibit C.
- 6) An access and utility easement, approved by the Community Development Director, shall be recorded with Lot 1200 and 704 of Map 8429AA, to benefit Lot 700 of Map 8429AA, upon transfer or sale of Lots 1200 or 704. This was included as recommended condition of approval #8 with ZC/CPA-04-11 ~~prior to the adoption of the zone change and comprehensive plan map amendment.~~

**EXHIBIT 'B'**

**LEGAL DESCRIPTION & MAP**

Tax Lot No. 8429AA 700

Ord. 1501/ Zone Change, Senior Center Property, Back Lot

14210

19220

14210

VEYOR'S CERTIFICATE

Edward W. Montgomery, being duly sworn, deposes and says that I have read and marked with proper monuments the land represented on hereon described partition map, the outside boundaries being described as follows:

Beginning at the initial point of the heretofore described partition plat, which is a 5/8" iron rod with yellow plastic cap stamped "LANDMARKERS", said point being 75.15 feet South 89°25'39" East, along the Northern right-of-way of Monmouth Street from the Southeast corner of Parcel 1, then North 189°-00'47", recorded in Book of Partition Plats, Polk County, Oregon, thence North 0°02'48" East, along a line parallel and 5 feet East of the Eastern line of the before mentioned Partition, a distance of 232.86 feet to a point measured 75.15 feet South 89°25'39" of the Northeast corner of said Partition, thence North 89°25'39" : a distance of 75.15 feet to the Northwest corner of said Partition; thence North 0°02'48" East, along a line projected from the before mentioned Eastern line of said Partition, a distance of 221.00 feet to a point on the Southern line of Tract 10, described in Book 187, Page 261, County Dead Records, thence South 89°25'39" East, along said line, a distance of 105.00 feet; thence South 89°25'39" East, along said line, a distance of 30.00 feet; thence North 17°15'00" East, along said line, a distance of 35.00 feet; thence North 74°47'00" East, along said line, a distance of 75.00 feet; thence North 53°21'00" East, along said line, a distance of 75.00 feet to the most Westerly corner of out of land described in Book 337, Page 1816; thence South 0°00'15" East, along the most Southwesterly line of the before mentioned tract, a distance of 210.00 feet to the Southwest corner thereof, thence North 8°45' West, along a line projected Westerly from said Southwest corner, a distance of 30.00 feet to the Northwest corner of Parcel 1, as shown in Book 187, Page 261, thence South 0°00'15" East, along a parallel and 123.00 feet West of the Eastern line of Parcel 1, and as described in said Book and Page, a distance of 156.00 feet to the Southwest corner of a tract of land described in Book 183, Page 1; thence South 74°36'31" East, along the Southwesterly line of said tract, a distance of 37.66 feet to the Southeast corner thereof; thence South 0°00'15" East, along the Eastern line of a tract of land described in Book 150, Page 2035, a distance of 112.97 feet to a point on the mentioned right-of-way, thence North 89°25'39" West, along said right-of-way, a distance of 131.24 feet to the point of beginning and being 1.88 acres of land more or less.

EDWARD W. MONTGOMERY, Licensed Land Surveyor No. 1251

EXPLANATION

I, the owner of the land described in the Surveyor's Certificate on made and desiring to dispose of the same into parcels, caused the same to be partitioned and surveyed, as shown on attached map.

herby create and grant the use of the easements shown on

thence whereof we set our hand and seal this 14th day of August, 2001.

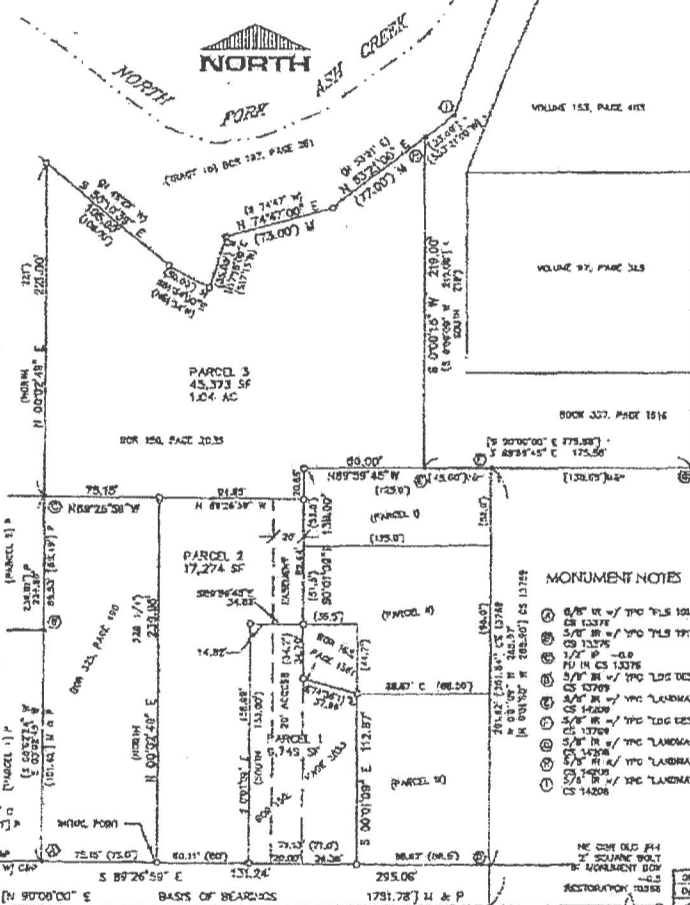
John E. Ellis, MANAGER, CITY OF INDEPENDENCE

STATE OF OREGON, CITY OF POLK

I, the 14th day of August, 2001, personally and before me the within named Greg Ellis, a notary public, known to be the identical persons described in the above instruments, and who duly acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein named without fear of compulsion from anyone.

Greg Ellis, Notary Public, State of Oregon, Commission Expires 12-1-03

PARTITION PLAT No. 2001-15 IN THE NE 1/4, SECTION 20, T.8 S., R.4 E., WILLAMETTE MERIDIAN IN THE CITY OF INDEPENDENCE, POLK COUNTY, OREGON PROPERTY OWNERS: CITY OF INDEPENDENCE



NARRATIVE

The purpose of this survey and map was to monument the corners, describe and divide the partitioning of two tracts of land described in Book 150, Page 2035 and Book 154, Page 2033, Polk County Dead Records. Basis of Bearings was established from County Survey 13376, shown hereon. Monumentation was obtained from said survey and Polk County Surveys 14208 and 13789. The right-of-way was established from monuments found and held. The Westerly lines were both established from the monuments found and held along the Eastern line of County Survey 13376. The Northern line was established from dead courses described in Book 150, Page 2035. The Eastern line was established from monuments found and held in County Surveys 14208 and 13789. Monuments set on the exterior boundary were calculated from dead courses from found monuments. Monuments set on the boundary were situated on lines formed by found monuments as noted. Interior monuments were set computed locations of approved design locations. Equipment used for this survey was a Topcon GTS-2110 Total Station.

APPROVALS

Kevin Johnson, City Recorder, City of Independence, 7-16-2001; Planning Administrator, City of Independence, 7-12-2001; Polk County Surveyor, 7-15-2001; Polk County Tax Collector, 8-6-2001.

All taxes, fees, assessments and other charges, as provided by O.R.S. 92.008, have been paid through: (Date) July 6, 2002.

STATE OF OREGON, COUNTY OF MARION

I do hereby certify that the attached partition number 2001-15 was received for record on the 17th day of August, 2001, at 9:32 o'clock A.M. and recorded in the Book of Partition Plats. It is recorded in Polk County Dead Records as Book 2001, Page 15.

Linda Doherty, Polk County Clerk

GENERAL NOTES

- 1. [ ] P denotes record bearing and/or distance from original plat of PARTITION PLAT 1997-0047, as recorded in Polk County Book of Partition Plats.
2. All monuments were found erect, in good condition, and useable unless otherwise noted.
3. 0.0 indicates found monument relationship to surface level: + = above, - = below.
4. [ ] \* denotes record bearing and/or distance from CS 14208.

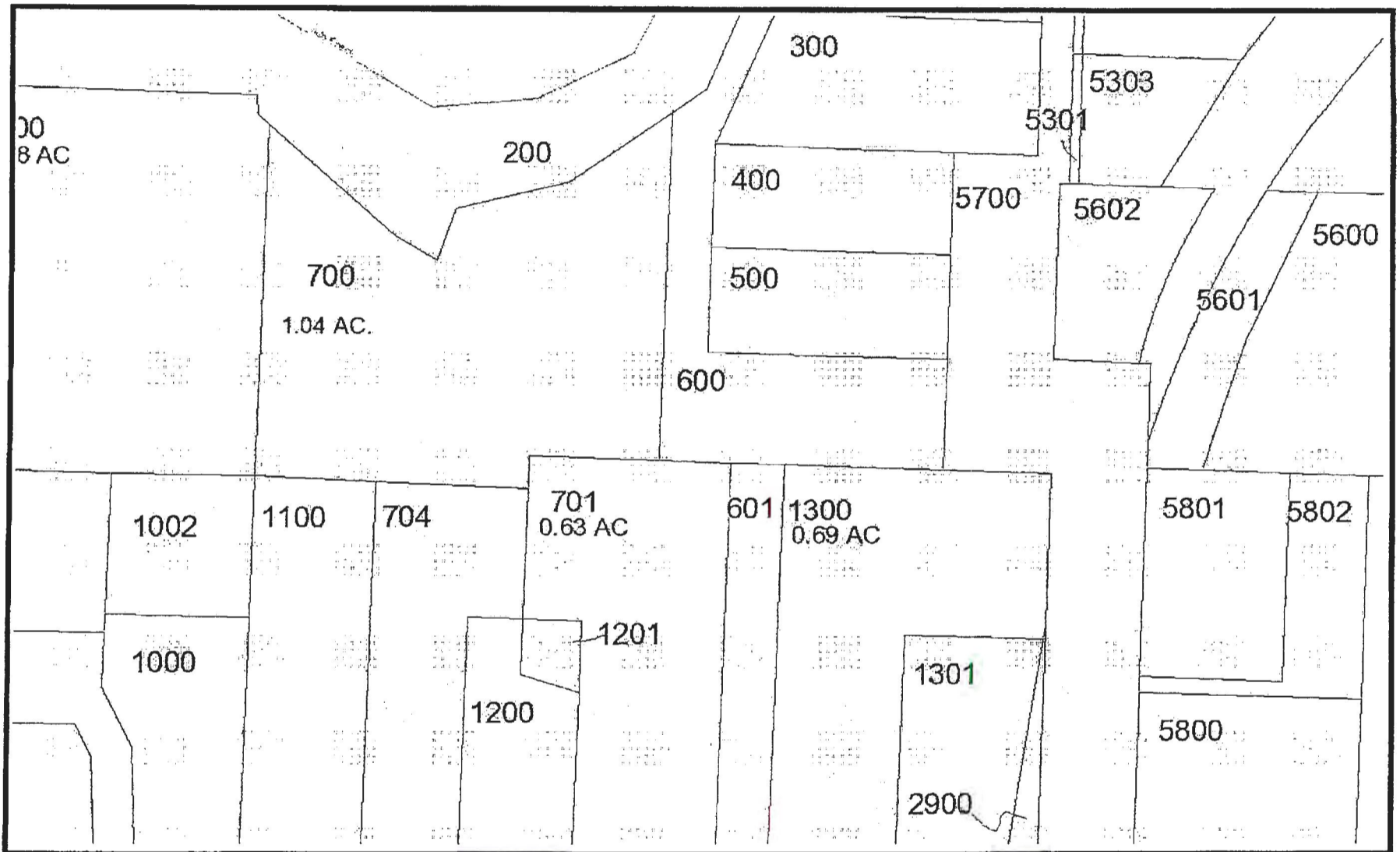
Survey form containing drawing number (2001-15), date (March 28, 2001), prepared for (City of Independence), and location (A Tract of Land in NE 1/4 Sec 20 T 8 S R 4 E Willamette Meridian, Polk County, Oregon). It also includes a table for monument locations and a signature for the surveyor, Richard W. Montgomery.

Ordinance 1501/Exhibit B Zone Change/Senior Center Property/Bank Lot



# Map

Ordinance 1501/Exhibit B  
Zone Change/Senior Center Property/Back Lot



## Polk County Web Maps v. 2.0

Disclaimer: This map was produced using Polk County GIS data. The GIS data is maintained by the County to support its governmental activities. This map should not be used for survey or engineering purposes. The County is not responsible for map errors, omissions, misuse or misinterpretation.

Printed 12/14/2011



**MID - WILLAMETTE VALLEY  
COUNCIL OF GOVERNMENTS**

105 High Street S.E.  
Salem, OR 97301-3667



**FIRST CLASS**

**DEPT OF**

**JAN 10 2012**

**LAND CONSERVATION  
AND DEVELOPMENT**

Attn: Plan Amendment Specialist  
DLCD  
635 Capitol St NE, Ste 150  
Salem OR 97301-2540